

# MICHIGAN LAWYERS WEEKLY

## Commentary

### Don't be misled by article's cerebral palsy implications

By: Brian J. McKeen in Viewpoint October 9, 2015

An article was recently published in the New England Journal of Medicine entitled, "Prenatal Factors in Singletons with Cerebral Palsy Born at or Near Term" (Sept. 3).

I am writing because I think it's important to put this article in perspective, as it implies that continuous electronic fetal monitoring does not prevent cerebral palsy.

First we must look at the source of the article. The lead author is Dr. Karen B. Nelson, who previously authored ACOG [American Congress of Obstetricians and Gynecologists] Technical Bulletin 163 and later the Neonatal Encephalopathy and Cerebral Palsy Monograph. These publications set forth a list of "essential criteria" that needed to be founded before a causal relationship between birth events and cerebral palsy could be established.

Nelson has admitted that these publications were drafted to help obstetrical care providers in defending lawsuits. The criteria was later revealed to be utterly bogus and without scientific foundation. The ACOG officially abandoned the criteria.

Secondly, the paper fails to ask the right question, which is: "Does electronic fetal monitoring allow early detection of lack of fetal well-being and offer an opportunity to expedite delivery of some babies before they suffer severe asphyxial insult?"

In my experience as an attorney with more than 30 years of representing children who developed cerebral palsy as the result of medical malpractice, the answer is a resounding “yes.”

I have represented scores of children who suffered intrapartum asphyxia and consequent brain damage, and in many instances, even the defense experts admitted that brain damage was avoidable if appropriate interventions had taken place when the fetal monitoring became abnormal. When fetal monitoring is properly performed; correctly interpreted and appropriate interventions are taken, intrapartum brain injury and fetal deaths can be avoided.

Those who read Nelson’s article and walk away with the erroneous impression that electronic fetal monitoring is not helpful in protecting babies in utero may unnecessarily jeopardize maternal and fetal safety.

*Brian J. McKeen is a plaintiff’s medical-malpractice and birth-injury attorney at Detroit-based McKeen & Associates.*